

Charges for shipping are gross receipts subject to ROT when they are part of the selling price of the tangible personal property being sold. See, 86 Ill. Adm. Code 130.415. (This is a GIL).

October 29, 2001

Dear Xxxxx:

This letter is in response to your letter dated July 25, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at the Department's Website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

AAA is a computer manufacturer that ships computers all over the country and we charge our customers the exact amount of freight that it costs us to ship it to them.

I spoke with PERSON in your legal section last week regarding charging our customers an additional amount beyond the cost of the freight charge to AAA. In other words, we would be making money on the sale of the freight. My first question to you is: What part of the freight charge would now become taxable?

Example:

Cost from UPS to ship from ## to **	\$50.00
Amount AAA charges customer	\$100.00
Profit from shipping	\$ 50.00

Does AAA charge it's customer sales tax on the \$50.00 profit from the freight, or the entire \$100.00?

I appreciate your help in resolving this issue. I am available if you need further clarification.

In Illinois, charges designated as "shipping and handling," as well as freight or delivery charges in general, are not taxable if it can be shown that they are both separately contracted for and that such charges are actually reflective of the costs of shipping. See 86 Ill. Adm. Code 130.415, enclosed. To the extent that shipping and handling charges exceed the costs of shipping, the excess charges are subject to tax. Charges termed "delivery" or "freight" charges follow the same principle. Therefore, in the example you set forth, the \$50.00 profit from shipping would be subject to sales tax.

In general, whether transportation or shipping charges may be deducted by retailers in calculating Retailers' Occupation Tax (sales tax) liability depends not upon the separate billing of such freight or handling charges but upon whether the charges are included in the selling prices of the property or are contracted for separately by purchasers and retailers. The best evidence that shipping charges were agreed to separately and apart from selling prices, are separate and distinct contracts for freight or shipping. Alternatively, documentation in the records of sellers that purchasers had options of taking delivery of the property at sellers' locations, for the agreed purchase prices, or having delivery made by sellers for the agreed purchase prices plus ascertainable delivery charges, may suffice.

Mail order delivery charges are deemed to be agreed upon separately from the selling price of the tangible personal property being sold so long as the mail order form requires a separate charge for delivery and so long as the charges designated as transportation or delivery or shipping and handling are actually reflective of the costs of such shipping, transportation or delivery. As noted above, to the extent that such charges exceed the actual costs of shipping, freight or delivery, the excess charges are subject to tax. See Section 130.415(d).

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz
Associate Counsel

KWB:msk
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